

TOWNSEND
and
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and
CREW

Denver, Colorado
Tel 303 571-4000

Palo Alto, California
Tel 650 326-2400

Seattle, Washington
Tel 206 467-9500

Walnut Creek, California
Tel 925 472-5000

San Francisco

Two Embarcadero Center
Eighth Floor
San Francisco
California 94111-3834
Tel 415 576-0200
Fax 415 576-0300

FACSIMILE COVER SHEET

Date:

May 02, 2003

To:

Examiner Andrea D. Small

Client & Matter Number :

018072-000600US

At Fax Number :

(703) 746-4984

No. Pages (including this one):

12

Confirmation Phone Number:

(703) 305-0811

(415) 273-4787

From : Kenneth E. Jenkins, Ph.D.

Message:

Dear Examiner Small:

Thank you for taking the time to speak with me this morning and last evening. We appreciate your help in clarifying the position of Art Unit 1626.

As you know, our position is that In re Weber's discussion of the impropriety of restricting a Markush claim under §121 is not dicta, but rather legal precedence that has been followed by the courts. To demonstrate our point, I have included the following items:

- (1) A shepardization report showing no negative treatment of In re Weber in any case and showing numerous citings by the Federal Circuit, the Board of Appeals and various District Courts.
- (2) Excerpts from In re Watkinson (Fed. Cir. 1990) and In re Harnisch (CCPA 1980) discussing In re Weber and improper restriction of a Markush claim under §121.
- (3) An excerpt from Chisum discussing the case law regarding the restriction of a Markush claim under §121.

Please feel free to contact me if you would like to discuss any of the enclosed items.

Best Regards,
Ken

Original
Will:

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Return to: Kenneth E. Jenkins, Ph.D. - (4087)

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